UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/CO/73/UKR
12 November 2001

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Seventy-third session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

UKRAINE

1. The Committee considered the fifth periodic report of Ukraine (CCPR/C/UKR/99/5) at its 1957th, 1958th and 1959th meetings (CCPR/C/SR.1957-1959), held on 15 and 16 October 2001. At its 1971st and 1972nd meetings (CCPR/C/SR.1971 and 1972), held on 24 and 25 October 2001, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the detailed report submitted on time by Ukraine. It regrets, however, that while providing information on legal norms and enactments governing Ukraine's obligations under the Covenant, the report lacks information on the implementation of the Covenant in practice. The Committee notes the State party's undertaking to submit additional written information in response to the Committee's questions.

GE.01-45936 (E) 201101

B. Positive aspects

3. The Committee expresses its appreciation for the considerable changes which have taken place in Ukraine since the submission of the last report. These changes constitute a positive constitutional and legal framework for the further implementation of the rights enshrined in the Covenant.

4. The Committee welcomes the adoption of the new Constitution in June 1996, which gives legal recognition to human rights and freedoms of the individual.

5. The Committee welcomes the abolition of the death penalty, including during time of war. The Committee hopes that the State party will ratify the second Optional Protocol to the Covenant.

6. The Committee notes with satisfaction the State party's ongoing efforts to reform its legislation, including the new Law on Refugees of 2001, the Law on Immigration of 2001, the Citizenship Law of 2001 and the decriminalization of libel. The Committee also welcomes the establishment of a new Constitutional Court, the adoption of a new Criminal Code, the enactment of new legislation relating to the protection of human rights and the creation of an appeal court system.

7. The Committee welcomes the establishment of the Office of the Ombudsman charged with the responsibility for protection of human rights in Ukraine.

C. Concerns and recommendations

8. The Committee is concerned that in the case of a clash between the Covenant rights and domestic laws the latter might prevail. Neither through examination of the report of the State party nor during the discussion with the delegation could the Committee obtain a clear understanding of how potential conflicts between Covenant rights and domestic laws are resolved.

The State party must ensure the effective implementation of all Covenant rights, in accordance with article 2 of the Covenant and including through independent and impartial courts of law operating in compliance with article 14.

9. While recognizing that there has been some progress in achieving equality for women in political and public life, the Committee remains concerned that the level of representation of women in Parliament and in senior positions in both the public and private sectors remains low.

The State party should undertake appropriate measures to give effect to its obligations under articles 3 and 26 so as to improve the representation of women in Parliament and in senior positions, in both the public and private sectors. The State party should consider the adoption of positive measures, including educational measures, to improve the status of women within the society.

10. The Committee notes with concern that domestic violence against women remains a problem in Ukraine.

The State party should take positive measures, including through enactment and implementation of adequate legislation and training of police officers and sensitization of the population, to protect women from domestic violence.

11. The Committee expresses concern that under the state of emergency, as envisaged in article 64 of the Constitution of Ukraine, the right to freedom of thought under article 34 of the Constitution and the right to freedom of religion could be restricted in a manner incompatible with the provisions of article 4 of the Covenant.

The State party must ensure that its framework for emergency powers during a state of emergency is compatible with article 4 of the Covenant, taking into account the Committee's General Comment No. 29.

12. The Committee notes with concern that the Office of the Ombudsman is seriously under-resourced.

The State party should provide adequate human and material resources to the Office of the Ombudsman to enable it to carry out its work effectively.

13. The Committee is concerned about allegations of police harassment, particularly of the Roma minority and aliens.

The State party should take effective measures to eradicate all forms of police harassment, and set up an independent authority to investigate complaints against the police. It should take steps against those held responsible for such acts of harassment.

14. The Committee regrets that the delegation did not provide the requested information about measures taken to combat racism and anti-Semitic acts and publications, and about the situation of Jewish cemeteries confiscated under Nazi occupation.

The State party is requested to provide the information sought by the Committee by the deadline stipulated in paragraph 25 below. The State party should take effective measures to prevent and punish racist and anti-Semitic acts and inform the Committee by the deadline stipulated in paragraph 25.

15. The Committee remains concerned about the persistence of widespread use of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials.

The State party should institute a more effective system of monitoring treatment of all detainees, so as to ensure that their rights under articles 7 and 10 of the Covenant are fully protected. The State party should also ensure that all allegations of torture are effectively investigated by an independent authority, that the persons responsible are prosecuted, and that the victims are given adequate compensation.

Free access to legal counsel and doctors should be guaranteed in practice, immediately after arrest and during all stages of detention. The arrested person should have an opportunity immediately to inform a family member about the arrest and the place of detention. All allegations of statements of detainees being obtained through coercion must lead to an investigation and such statements must never be used as evidence, except as evidence of torture.

16. The Committee is concerned at reports of bullying and hazing (dedovshchina) of young conscripts in the armed forces by older soldiers, which in some cases have led to deaths, suicides and desertion.

The State party should strengthen measures to end these practices and prosecute offenders, and take steps by way of education and training in its armed forces to eradicate the negative culture that has encouraged such practices.

17. The Committee remains concerned about the permissible length of detention as a "temporary preventive measure" (up to 72 hours) in the custody of law enforcement authorities and before detainees are informed of charges brought against them, and about the practice of extending the period of such detention for up to 10 days in certain cases on the initiative of a prosecutor. Such practice is incompatible with article 9 of the Covenant. The Committee is also concerned that no effective mechanism exists for monitoring such detention.

The State party should take all necessary measures to reduce the length of such detention and to improve judicial oversight so as to ensure compliance with Covenant rights. The Committee also requests detailed information about the composition, manner of appointment, functions and powers of the "body of inquiry" referred to by the delegation, as well as information as to its actual practice.

18. The Committee remains concerned about the continuation of practices involving the trafficking of women in Ukraine.

The State party should take measures to combat this practice, including the prosecution and punishment of those found responsible, and give full effect to the provisions of article 8 of the Covenant.

19. The Committee is concerned about the continued existence of the propiska system, which is incompatible with the right to freedom of movement and choice of residence provided in article 12 of the Covenant.

The State party should abolish the system of internal permits and give full effect to the provisions of article 12 of the Covenant.

20. The Committee notes with concern the information given by the State party that conscientious objection to military service is accepted only in regard to objections for religious reasons and only with regard to certain religions, which appear in an official list. The Committee is concerned that this limitation is incompatible with articles 18 and 26 of the Covenant.

The State party should widen the grounds for conscientious objection in law so that they apply, without discrimination, to all religious beliefs and other convictions, and that any alternative service required for conscientious objectors be performed in a non-discriminatory manner.

21. The Committee is concerned about the intimidation and harassment, in particular by government officials, of human rights defenders.

The State party must take measures to end the intimidation and harassment of human rights defenders. Reported instances of intimidation and harassment should be investigated promptly.

22. The Committee is concerned about reports of intimidation and harassment of journalists. It is further concerned about the absence of criteria for granting or denying licences to electronic mass media, such as television and radio stations, which has a negative impact on the exercise of freedom of expression and the press provided in article 19 of the Covenant. It is also concerned that the system of government subsidies to the press may be used to stifle freedom of expression.

(a) The State party should ensure that journalists can carry out their activities without fear of being subjected to prosecution and refrain from harassing and intimidating them, in order to give full effect to the right to freedom of expression and of the press provided in article 19 of the Covenant.

(b) The State party should take effective measures to define clearly in law the functions and competences of the State Communications Committee of Ukraine. The decisions of the State Communications Committee should be subject to judicial control.

(c) The State party should ensure that clear criteria are established for payment and withdrawal of government subsidies to the press, so as to avoid the disbursement of such subsidies for the purpose of stifling criticism of the Government.

23. The Committee expresses its concern about the vague and undefined concept of "national minorities", which is the dominant factor in the State party's legislation on national minorities but does not cover the entire scope of article 27 of the Covenant. The Committee is also concerned about reports of cases of discrimination and harassment of persons belonging to minorities.

The State party should ensure that all members of ethnic, religious and linguistic minorities enjoy effective protection against discrimination, and that members of these communities can enjoy their own culture and use their own language, in accordance with article 27 of the Covenant.

D. Dissemination of information about the Covenant

24. The Committee calls upon the State party to publicize the text of these concluding observations in appropriate languages, and requests that the next periodic report be widely disseminated among the public, including non-governmental organizations operating in Ukraine.

25. Pursuant to rule 70 (5) of the Committee's rules of procedure, the State party is invited to provide, within a period of 12 months, information about steps being taken to address the issues raised in paragraphs 10, 13, 14, 15, 17, 19 and 23 of the present concluding observations.

26. The Committee requests the State party to submit its sixth periodic report by 1 November 2005.

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